S.B. Civil Writ Petition No.1092/06
Neenu Tripathi Vs. State & Ors.

Date of Order : 07/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Prahlad Singh, for petitioner

The petitioner joined service as Lady Supervisor on the basis of her selection on 24th June, 1992 and after submitting application on 13th July, 1992 without the same being sanctioned, she proceeded on leave and reported for duty on 24th December, 1992.

Counsel for petitioner submits that since she was undergoing her B.Ed. course, there was no other option left with the petitioner to continue with the same and taking her bonafide decision she submitted application Ann.1, which was never refused by the competent authority and finally her leave has also been sanctioned as extraordinary leave without pay. For her absence from duty, but still she was served with a notice under Rule 17 of the CCA Rules, 1958 on 29th June, 1998 [Ann.13] and after taking her reply into consideration, the competent authority holding the petitioner guilty for absence from duty finally punished her with the penalty of stoppage of

one annual grade increment without cumulative effect. Against the said order, she preferred appeal under Rule 23 of the CCA Rules after almost more than 3 years on 8th March, 2002 which was rejected only on the premise that it is barred by limitation provided under the Rules vide order dt.17th April, 2002. Against which she further preferred review petition that too was also dismissed vide order dt.14th February, 2005 [Ann.29]. Hence, this petition.

Shri Prahlad Singh, counsel for petitioner contends that the petitioner submitted application and after giving proper information to the Director, she proceeded on leave and the reason was also mentioned in the application itself that she is undergoing B.Ed. course and for its completion of the session, she may be permitted to proceed on leave since it was never rejected by the competent authority the petitioner bonafidely proceeded and pursued her course and immediately after undergoing course, she reported for duty on 24th December, 1992 and even during the intervening period no notice was ever served upon her and once the period of leave has been regularized after being sanctioned as extraordinary leave by the competent authority vide order dt.6th January, 1999 initiating disciplinary

action against the petitioner is in violation of principles of natural justice. Counsel further submits that order of punishment inflicted by the Disciplinary Authority was never served upon her and for the first time it came to her notice in 2002 and immediately thereafter she preferred appeal before the competent authority, as such rejection of her appeal and so also of the review application is arbitrary and has not taken note of the relevant material which she has submitted for consideration of her grievance on merits.

I have considered the submission made by the counsel and perused the material available on record.

This fact remained undisputed that the petitioner remained on leave from 13th July, 1992 to 23rd December, 1992 and leave application was never sanctioned by the competent authority and submitting application without seeking permission or sanctioned by the authority will not hold the petitioner's action to be justified in proceeding on leave. The further contention of the counsel that once leave has been sanctioned as extraordinary leave, it cannot be considered to be wilful absence, in my opinion, is without any substance. The

petitioner cannot be absolved from the misconduct which she has committed in proceeding on leave without prior sanction for a period of six months. Further submission made by the counsel that for the first time it came to her notice in 2002 and she immediately preferred appeal before the Appellate Authority. From a bare perusal of the impugned orders of appellate and reviewing authority a fact about service of order of punishment has been noticed and it is not the case of the petitioner that despite order of punishment increment was not with-held by the respondent, which itself is a notice to her of punishment inflicted. Apart from delay, even on merits I find that in the absence of any justification came forward from the petitioner with regard to period of absence the order passed by the Appellate Authority and so also by the Reviewing Authority requires no interference by this court.

Consequently, I find no merit in the writ petition and the same is, accordingly, dismissed.

[Ajay Rastogi],J.

FRB